

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SERGIO MEDRANO,

Petitioner,

-v-

No. 13 Civ. 1604(LTS)(JLC)
No. 06 Cr. 0061(RJH)

UNITED STATES OF AMERICA,

Respondent.

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ORDER

Petitioner Sergio Medrano has moved for relief from his conviction under 28 U.S.C. § 2255 on the grounds of ineffective assistance and conflict of interest of counsel. On April 16, 2013, Petitioner moved for appointment of counsel to represent him with respect to his Section 2255 petition and he renewed his request for the appointment of counsel in a motion dated June 29, 2013. (See Docket Entry No. 9 in Case No. 13 Civ. 1604(LTS)(JLC) and Docket Entry No. 86 in Case No. 06 Cr. 0061 (RJH)). The Court has reviewed carefully Magistrate Judge Cott's Report and Recommendation (the "Report") which recommends granting Petitioner's motion for the appointment of counsel. Neither party has filed any objection to the Report.

When reviewing a Report, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.S. § 636(b)(1)(C) (LexisNexis Supp. 2013). "A district court evaluating a Magistrate Judge's report and recommendation may adopt those portions of the . . . report to which no 'specific written objection' is made, as long as the factual and legal bases supporting the findings and conclusions

set forth in those sections are not clearly erroneous or contrary to law.” Eisenberg v. New England Motor Freight, Inc., 564 F. Supp. 2d 224, 226 (S.D.N.Y. 2008) (citation omitted).

The Court has carefully reviewed Magistrate Judge Cott’s thorough Report and finds no clear error. The Court therefore adopts the Report in its entirety for the reasons stated therein. Petitioner’s motion for the appointment of counsel is granted and Petitioner’s other requests are denied without prejudice subject to appointed counsel making such arguments.¹ The Court will enter an Order appointing Matthew Brissenden, Esq. as Petitioner’s counsel with respect to his Section 2255 petition. This Order resolves Docket Entry Number 9 in this case, No. 13 civ. 1604(LTS)(JLC), and Docket Entry Number 86 in the criminal case, No. 06 Cr. 0061(RJH).

SO ORDERED.

Dated: New York, New York
August 20, 2013

_____/S_____
LAURA TAYLOR SWAIN
United States District Judge

¹ Petitioner’s other requests include asking that the Court: (1) permit counsel a reasonable period of time to review and make objections to Petitioner’s waiver of the attorney-client privilege; (2) withhold the waiver until the “Motion for Appointment of Counsel” is addressed, heard and decided; (3) direct the Government to present evidence related to Petitioner’s allegation that Avrom Robin, Esq. had a conflict of interest while representing Petitioner at trial; and (4) hold a Sullivan hearing. (See Judge Cott’s July 31, 2013, Report & Recommendation at 2.)

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